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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,115	05/25/2001	Steven Bruce Katz	PMT-003	4928

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EXAMINER

KRAMER, JAMES A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,115

Applicant(s)

KATZ ET AL.

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-155 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-155 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Duplicate Claims

Applicant is advised that should claims 1-63 be found allowable, claims 64-127 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Examiner notes that in this instance the only difference between the two sets of claims occurs in the independent claims (Claims 1 and 64). Specifically, Applicant rearranges the last two method steps without altering the language at all.

Claim one recites:

Invoking one or more software modules to provide actions to resolve the impact . . . and

Triggering automatically one or more software modules to alert the user that one or more software modules are acting to resolve the impact . . .

Claim two recites:

Triggering automatically one or more software modules to alert the user that one or more software modules are acting to resolve the impact . . . and

Invoking one or more software modules to provide actions to resolve the impact . . .

Examiner notes that the neither the specification nor claims indicate that the method must be done in a particular order or that by changing the order a new or unexpected result is produced. Consequently, merely rearranging the order of the steps does not substantially alter the claim and therefore the two sets of claims, in this instance are found to be duplicates.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-155 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox et al. in view of Official Notice.

Fox et al. teaches a computer-based Executive Information System (EIS) for determining the impact of weather and other external and internal factors on the retail industry (Abstract). Fox et al. further teaches that an effective merchandize plan (or business process) must consider all possible external and internal factors. To assimilate and analyze this data, which comes from many sources and in many formats, companies utilize management information systems (MIS). The primary function of an MIS department is to electronically collect, store, retrieve and manipulate information (column 2; lines 26-37). The present invention of Fox et al. leverages this system to provide an entirely electronic, computerized EIS implementation for ease of data retrieval/analysis with specific functions that solve specific managerial planning applications (column 7; lines 8-10).

Referring to Figure 1: Fox et al. details a conventional MIS system architecture. An MIS architecture 101 captures internal data and electronically flows this data throughout the organization for managerial planning and control purposes (column 2; lines 59-64). An EIS 129, interfaces with the MIS data storage and retrieval facility and analyze the data and performs

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managerial applications without interaction with the user (column 3; lines 27-37). Examiner note that this represents invoking a software module to provide actions to resolve the impact of first information on business operations in the enterprise).

Examiner notes that Fox et al. teaches in conventional systems, external information 116 was separately made available to the user for consideration in developing managerial plan (column 3; lines 43-45). However referencing Figure 4, which represents the improved system of Fox et al. the EIS system collects the external data with the internal data and thus automating this system.

Examiner notes that Fox et al. does not teach triggering a software module to alert a user that a software module is acting to resolve the impact of first information on the business operations in the enterprise. Examiner takes Official Notice that it is old and well known for computer systems to notify users when taking action in order to allow users to override the action if it is improper.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Fox et al. so that when the EIS system performs managerial applications without interaction with the user, the user is notified of the application as taught by Official Notice in order to allow the user to override the application if it is improper.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (703) 305-5241. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (703) 305-4716. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

JAK


Richard Chilcot
Supervisory Patent Examiner
Technology Center
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